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99TH CONGRESS 2d Session | HOUSE OF REPRESENTATIVES | REPORT 99-532

MF 148

ATLANTIC STRIPED BASS CONSERVATION ACT AUTHORIZATION

APRIL 16, 1986.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. JONES of North Carolina, from the Committee on Merchant Marine and Fisheries, submitted the following

REPORT

[To accompany H.R. 3358]

[Including cost estimate of the Congressional Budget Office]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 3358) to reauthorize the Atlantic Striped Bass Conservation Act, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

On page 2, before line 23, insert the following new sections:

SEC. 2. COMMISSION FUNCTIONS.

(1) Section 4 of the Atlantic Striped Bass Conservation Act is amended by striking subsections (a) and (c) and redesignating subsections (b) and (d) as (a) and (b) respectively.

(2) Subsection (a) (as so redesignated) is amended to read as follows:

(a) MONITORING OF IMPLEMENTATION AND ENFORCEMENT.—

(1) Commencing on July 1, 1986, the Commission shall monitor on a biannual basis—

(A) whether each coastal state has adopted all regulatory measures necessary to fully implement the Plan in its coastal waters; and

(B) the enforcement of the Plan by each coastal State for purposes of deciding if enforcement is satisfactory. Enforcement by a coastal state may

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not be considered satisfactory by the Commission if the enforcement is being carried out in such a manner that the implementation of the Plan is being, or will likely be, substantially and adversely affected.

(2) The Commission shall immediately notify the Secretaries of each negative determination made by it under this subsection.

(3) Subsection (b) (as so redesignated) is amended to read as follows:

(b) SECRETARIAL ACTION AFTER NOTIFICATION.—

Upon receiving notice from the Commission under subsection (a) that a coastal State has not taken the actions described in that subsection, the Secretary shall determine, within 30 days, whether that coastal State is in compliance with the Plan and, if the State is not in compliance, the Secretary shall declare a moratorium on fishing for Atlantic striped bass within the coastal waters of that coastal State. In making such a determination, the Secretary shall carefully consider and review the comments of the Commission, that coastal State in question, and the Secretary of the Interior.

SEC. 3. MORATORIUM.

Section 5 of the Atlantic Striped Bass Conservation Act is amended as follows:

(1) Subsection (a)(1) is amended by striking "(4)d" and inserting '(4)b";

(2) Subsection (a)(2) is amended to read as follows:

(2) The term "moratorium period" means the period beginning on the day on which a moratorium is declared under section 4(b) regarding a coastal State and ending on the day on which the Commission notifies the Secretary that that State has taken appropriate remedial action with respect to those matters that were the cause of the moratorium being declared and the Secretary, upon review, agrees with the determination of the Commission.

Renumber sections 2 through 4 as sections 4 through 6, accordingly.

On page 3, line 2, strike out "1986, 1987, and 1988," and insert "1986 and 1987,".

On page 3, line 10, strike out "1988" and insert "1987".

On page 3, line 12, strike out "Anadramous" and insert in lieu thereof "Anadromous".

On page 3, line 15, strike out "1988." " and insert "1988"."

On page 3, line 13, strike out "(16 U.S.C. 767g(d))" and insert in lieu thereof "(16 U.S.C. 757g(d))".

PURPOSE OF THE LEGISLATION

The purpose of H.R. 3358, as amended, is to reauthorize the Atlantic Striped Bass Conservation Act through Fiscal Year 1987. The

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Atlantic Striped Bass Conservation Act provides Federal assistance for the development, implementation, and enforcement of interstate policy regarding the conservation and management of the Atlantic striped bass. In addition, the legislation reauthorizes section 7 of the Anadromous Fish Conservation Act for Fiscal Years 1986, 1987, and 1988 at current levels.

Legislative Background

On September 18, 1985, Congressmen Studds and Breaux introduced H.R. 3358, a bill to reauthorize the Atlantic Striped Bass Conservation Act, and for other purposes, which was referred to the Committee on Merchant Marine and Fisheries. On February 27, 1986, the Subcommittee on Fisheries and Wildlife Conservation and the Environment held a hearing to consider H.R. 3358 and striped bass conservation and management issues in general, including the reauthorization of section 7 of the Anadromous Fish Conservation Act. Testimony was received from the National Oceanic and Atmospheric Administration of the Department of Commerce and the U.S. Fish and Wildlife Service of the Department of the Interior. Testimony was also received from the State of Massachusetts, the Atlantic States Marine Fisheries Commission, the International Association of Fish and Wildlife Agencies, and the Virginia Institute of Marine Science.

All Federal witnesses testified in support of the reauthorization of the Atlantic Striped Bass Conservation Act as did all other witnesses with the exception of the representative of the Atlantic States Marine Fisheries Commission. The Federal witnesses testified in opposition to the reauthorization of section 7 of the Anadromous Fish Conservation Act which authorized the so-called "Emergency Striped Bass Study."

On March 19, 1986, the Subcommittee on Fisheries and Wildlife Conservation and the Environment held an open markup to consider H.R. 3358. No amendments were adopted and the bill was reported to the full Committee by voice vote. On April 9, 1986, the full Committee on Merchant Marine and Fisheries met in open markup and adopted two amendments to H.R. 3358. After the adoption of the amendments, the full Committee ordered the bill reported, as amended, to the House by unanimous voice vote.

Explanation of the Amendments

The first amendment to H.R. 3358, offered by Mr. Studds, clarified that the Atlantic States Marine Fisheries Commission is to monitor state implementation and enforcement of the Commission's Striped Bass Plan on a biannual basis. The amendment also provided that a moratorium will be terminated once the Commission notifies the Secretary, and the Secretary concurs with the Commission, that an affected state has taken adequate remedial action.

The second amendment that was adopted was offered by Ms. Mikulski and reduced the effective duration of the Act from its originally proposed reauthorization through Fiscal Year 1988 to only the end of Fiscal Year 1987.

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Background and Need

Important Atlantic Coast stocks of striped bass are found from the States of North Carolina through Maine. The striped bass by nature is anadromous, spawning in fresh water streams and then migrating to estuarine or marine waters where they reside until the next spawning season. Although the striped bass along the Atlantic Coast may be highly migratory, they rarely venture into waters under Federal fishery jurisdiction.

Because of the migratory characteristics of striped bass, they are usually subject to the jurisdiction of many states. Prior laws and regulations aimed at managing and conserving the striped bass were, at best, variable and, at worst, inconsistent. Public Laws 77-539 and 81-721 created an interstate compact and the Atlantic States Marine Fisheries Commission (ASMFC) "to promote the better utilization of the fisheries, marine and anadromous, of the Atlantic seaboard by the development of a joint program for the promotion and protection of such fisheries. . . ." The ASMFC operates in an advisory capacity and thus its interstate fishery management plans (ISFMPs) are not binding on the states.

In the 1970's, it was recognized that the Atlantic striped bass populations were undergoing a steep decline. In response to this decline, the ASMFC developed in ISFMP for striped bass which recommended minimum size limits in the internal waters of the states and in the territorial seas as well as other management recommendations. This plan was unanimously adopted by the interested ASMFC member states—Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and North Carolina—in 1981. However, many states were slow to implement the basic provisions of the ISFMP.

Congress also took note of the severe decline of striped bass populations by authorizing an Emergency Striped Bass Study (ESBS) in 1979 under section 7 of the Anadromous Fish Conservation Act. This legislation called for the U.S. Fish and Wildlife Service and the National Marine Fisheries Service to undertake a joint study of the causes of the striped bass decline and to recommend remedial action.

The most recent report of the ESBS, published in May of 1985, points out that:

(1) Harvest and juvenile production for striped bass spawned in the Chesapeake Bay, the Delaware River, and the Roanoke River are at levels that are the lowest on record.

(2) Evidence gathered during the 1984 spawning season suggests that low pH (acidity) and aluminum toxicity may be an important cause of mortality of early life stages in the Nanticoke and Choptank Rivers of the Chesapeake Bay.

(3) There still is no conclusive evidence to either refute or support the hypothesis that declining juvenile abundance is due primarily to environmental factors or low spawning stock levels.

(4) Reducing fishing mortality will have an immediate and positive impact on the reproductive capability of the Chesapeake Bay stocks.

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(5) Continuing habitat destruction and degradation may inhibit the ability of striped bass to recover in the future.

(6) Biological information is still inadequate for forecasting with certainty that the reductions in fishing contemplated by the Atlantic States Marine Fisheries Commission will be adequate by itself to allow striped bass stocks to recover from their current depressed state.

Since the ISFMP was adopted by the ASMFC it has been subject to several amendments. Amendment Number 2 of the ASMFC provided that each state take measures to reduce fishing mortality on Chesapeake Bay stocks by 55 percent below the level of fishing mortality that would have occurred if each state had adopted the then existing provision of the ISFMP. It is clear to the Committee that the Striped Bass Conservation Act did, in fact, provide an incentive for each state to implement this amendment to the ISFMP. To date, North Carolina, Maryland and Delaware have completely closed their fisheries of Chesapeake Bay stocks and all other states have fully implemented Amendment Number 2. More recently, the ASMFC, in October, 1985, adopted Amendment Number 3 to the ISFMP which was made effective July 1, 1985.

Amendment Number 3 provides:

> That the states reduce fishing mortality on the 1982 year class females and females of all subsequent year classes of Chesapeake Bay stocks to zero until 95 percent of the females of these year classes have an opportunity to reproduce at least once. This objective is intended to apply to the fishery until the 3-year running average of Maryland young-of-year index attains 8.0. Management measures which will accomplish this objective include combinations of the following which insure that no fishing mortality occurs on the target year classes:
>
> (a) Total closures of striped bass fisheries. Where a state has closed its fishery, neighboring states and jurisdictions whose waters border or are tributary to those which are closed should take complementary actions to insure the enforceability of such closures.
>
> (b) Establishment of minimum size limits below which 95 percent of females have spawned at least once.
>
> (c) Establishment of minimum size limits in combination with seasonal closures which insure that subadult females are not taken in open fisheries.
>
> (d) Elimination of any allowable bycatch below minimum lengths.
>
> (e) Such measures need to be made effective prior to the time at which 1982 year class females become exploitable under a given jurisdiction's regulations.

The Striped Bass Board of the ASMFC has recommended a timetable for minimum size limits should states choose to implement this measure solely through the establishment of minimum size limits. The Board recommends that minimum size limits of 31 inches (total length) be adopted by the 1987 fishing season and 33 inches by the 1988 fishing season in order to implement Amendment

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Number 3. The Committee believes that the timetable for instituting size limits on all females of the 1982 and subsequent year classes of Chesapeake stocks is considered part of the Commission's plan.

The Committee recognizes that some states may wish to implement Amendment Number 3 through total closures or by combinations of various actions. It is the desire of the Committee to preserve the discretion of the individual states to determine which combination of measures would be most appropriate for achieving the management objectives of Amendment Number 3. It is the Committee's collective belief that Congress should not establish specific fishery management measures for the striped bass. Amendments to the ISFMP are a matter of record with the ASMFC and the Committee intends to preserve the discretion of the Commission to amend, modify, or rescind various elements of the ISFMP. The Committee is, however, very concerned over the welfare of the striped bass. Many states had a great deal of difficulty in implementing the conditions of the ISFMP on a timely basis and will, in all probability, have a more difficult task in implementing the conditions of Amendment Number 3. The striped bass populations along the Atlantic Coast have continued to decline with the exception of the Hudson River stock which nonetheless is affected by Polychlorinated Biphenyl (PCB) contamination problems.

Section-by-Section Analysis

Section 1 of H.R. 3358 amends the definition of "coastal waters" in the original Act to include the waters within the jurisdiction of the Potomac River Fisheries Commission—an interstate compact of Maryland and Virginia designed to manage fisheries in the Potomac River—and the District of Columbia. Section 1 also amends the definition of "coastal state" by adding a reference to the District of Columbia and the Potomac River Fisheries Commission.

Section 2 of H.R. 3358 clarifies that the Atlantic States Marine Fisheries Commission is to monitor implementation and enforcement of the ISFMP by the states on a biannual basis.

Section 3 clarifies that in order for a moratorium to be lifted, the ASMFC must find that the affected state has taken appropriate remedial actions and the Secretary of Commerce agrees with the finding of the ASMFC.

Section 4 amends section 7 of the Atlantic Striped Bass Conservation Act to extend the reathorization of appropriations through Fiscal Year 1987.

Section 5 amends section 9 of the Atlantic Striped Bass Conservation Act to extend the effective date of the Act until the close of Fiscal Year 1987.

Section 6 amends section 7 of the Anadromous Fish Conservation Act (Emergency Striped Bass Study) by extending the authorization of appropriations at the current annual level of $1 million for Fiscal Years 1987 and 1988.

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Cost of Legislation

Pursuant to clause 7 of rule XIII of the House of Representatives, the Committee estimates that the cost of H.R. 3358 in Fiscal Year 1987 will be $2.5 million and $1.4 million in Fiscal Year 1988.

Inflationary Impact Statement

With respect to the requirements of clause 2(l)(4) of Rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 3358 would have no significant inflationary impact upon prices and costs in the operation of the national economy.

Compliance With Clause 2(l)(3) of Rule XI

In compliance with clause 2(l)(3) of Rule XI of the House of Representatives:

(a) The Committee on Merchant Marine and Fisheries' Subcommittee on Fisheries and Wildlife Conservation and the Environment held a hearing on H.R. 3358 on February 27, 1986.

(b) The enactment of H.R. 3358 will create budget authority of $3.0 million in Fiscal Year 1987 and $1.0 million in Fiscal Year 1988.

(c) The Committee on Merchant Marine and Fisheries did not receive a report from the Committee on Government Operations pursuant to clause 4(c)(2) of rule X of the House of Representatives.

(d) A letter was received from the Director of the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974 in reference to H.R. 3358 and reads as follows:

U.S. Congress,
Congressional Budget Office,
Washington, DC, April 9, 1986.

Hon. Walter B. Jones,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for H.R. 3358, a bill to reauthorize the Atlantic Striped Bass Conservation Act, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

Rudolph G. Penner, *Director.*

Congressional Budget Office Cost Estimate

1. Bill number: H.R. 3358.
2. Bill title: To reauthorize the Atlantic Striped Bass Conservation Act, and for other purposes.
3. Bill status: As ordered reported by the House Committee on Merchant Marine and Fisheries, April 9, 1986.
4. Bill purpose: H.R. 3358 would make technical amendments to Public Law 98-613, the Atlantic Striped Bass Conservation Act,

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and would authorize funding for programs under the act for fiscal year 1987. The bill would also reauthorize Section 7 of the Anadromous Fish Conservation Act at its current annual level of $1 million through fiscal year 1988.

5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1987	1988	1989	1990	1991
Estimated authorization level	3.0	1.0			
Estimated outlays	2.4	1.4	0.2		

The costs of this bill fall within budget function 300.

Basis of estimate: For purposes of this estimate, it is assumed that H.R. 3358 would be enacted during fiscal year 1986. Based on information from the Departments of Commerce and the Interior, CBO estimates that about $2 million would be required in 1987 for federal agencies' activities authorized by the Atlantic Striped Bass Conservation Act, primarily for the comprehensive annual surveys required by Section 6 of the act. The Secretary's study required by Section 8 of that act has been completed, and no additional funds are estimated to be necessary for this purpose.

No sums are included in the estimate for the Atlantic States Marine Fisheries Commission, whose activities are funded by its member states. In addition, no funds have been included in the above table for any potential federal enforcement activities under Section 5 of the act, relating to the declaration of a federal moratorium on striped bass fishing. In the event that the provisions of Section 5 are invoked, additional federal costs may be incurred, but these cannot be estimated at this time.

6. Estimated cost to State and local governments: The extension of the Atlantic Striped Bass Conservation Act will not impose any additional costs on the affected coastal states.

7. Estimate comparison: None.

8. Previous CBO estimate: On March 26, 1986, CBO prepared a cost estimate for S. 1813, a similar bill ordered reported by the Senate Committee on Environment and Public Works, March 20, 1986. S. 1813 authorized appropriations for striped bass programs through fiscal year 1988, while H.R. 3358 would only authorize funding for fiscal year 1987 (except for the emergency striped bass study, which would be funded through fiscal year 1988). Our cost analysis reflects these differences.

9. Estimate prepared by: Deb Reis.

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

Departmental Reports

The Committee on Merchant Marine received the following report from the Department of the Interior, which follows herewith:

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U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, March 25, 1986.

Hon. WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your requst for our views on H.R. 3358, a bill "To reauthorize the Atlantic Striped Bass Conservation Act, and for other purposes."

We recommend enactment of H.R. 3358 with the amendments discussed below:

H.R. 3358 would amend section 3 of the Atlantic Striped Bass Conservation Act (P.L. 98-613; 16 U.S.C. 1851 note) to expand the definition of "coastal waters" to include the Potomac River and to expand the definition of "coastal State" to include the Potomac River Fisheries Commission and the District of Columbia. Section 7 of the Act would be amended to authorize appropriations of such sums as necessary to carry out the Act during FY's 1986 through 1988. Section 9 of the Act would be amended to extend through FY 1988 the requirement that the Atlantic States Marine Fisheries Commission monitor, on a biannual basis, the adequacy of State enforcement of the Interstate Fisheries Management Plan for Striped Bass and the authority of the Secretary of Commerce to impose a striped bass fishing moratorium if enforcement is inadequate. Finally, the bill would amend section 7 of the Anadromous Fish Conservation Act (16 U.S.C. 767g(d)) to reauthorize appropriations for the Emergency Striped Bass Study through FY 1988.

The Atlantic Striped Bass Conservation Act was enacted in 1984 in an effort to increase protection and recovery of coastal migratory stocks of Atlantic striped bass. The Act:

Required the Secretaries of Commerce and the Interior to review the Atlantic States Marine Fisheries Commission's Interstate Fisheries Management Plan for Striped Bass and report jointly to Congress on the Plan's adequacy to achieve the purposes of the Act.

Established procedures for the review of each State's implementation of the Plan and authorized a fishing moratorium where it was not fully implemented. The Commission was required to decide by June 30, 1985, whether each State had taken the regulatory measures necessary to implement the Plan within its coastal waters and to report any negative determinations to the Secretary of Commerce. Based on this notification, the Secretary was required to determine, after considering the comments of the State in question and the Secretary of the Interior, whether the State was in compliance with the Plan and, if not, to declare a moratorium on striped bass fishing within that State's coastal waters.

Requires the Commission to conduct twice yearly monitoring of enforcement of the Plan, commencing on July 1, 1985, and to report twice yearly to the Secretaries of Commerce and the Interior commencing on December 30, 1985. It authorizes the Secretary of Commerce to impose a fishing moratorium where implementation of the Plan is inadequate.

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Establishes penalties for violations of moratoria and provides enforcement authority.

Requires annual surveys of the Atlantic striped bass fishery by the Secretaries of Commerce and the Interior and reauthorizes the Emergency Striped Bass Study through FY 1986.

Authorizes appropriations for hatchery propagation of striped bass by Maryland and Virginia for FY's 1986 and 1987 and funds for the Departments of Commerce and the Interior through FY 1986.

The Act has been implemented and is generally considered to have provided a successful stimulus to States to take actions that have set the stage for achieving the purposes of the Act. In May 1985, the first report required by the Act was sent to Congress from the Departments of Commerce and the Interior. It indicated that the Plan and its implementation would be adequate for achieving the purposes of the Act if an amendment then under consideration were adopted. The Commission found in June 1985 that all States had taken action to adopt regulations necessary for compliance with the Plan. The most recent report required by the Act, the first enforcement monitoring report, was issued January 13, 1986. It indicates effective enforcement of the Plan and little illegal activity.

In June 1985, an amendment similar to the one discussed in the May report was adopted by the Commission; it is now referred to as Amendment 3. Its objective is to protect female striped bass of the relatively abundant 1982 year class and of subsequent year classes until they have had the opportunity to spawn at least once. Most of the 1982 females are expected to return to natal rivers to spawn for the first time in 1987 and 1988. Compared to the harvest-reduction measures reviewed in 1985 pursuant to the Act, implementation of Amendment 3 will be easier to assess and, at the same time, provide a higher level of protection to the imperiled stocks than did the original restrictions. Moreover, ensuring implementation of the size restrictions in this amendment, assuming that it is applied to inland nursery waters as well as marine waters, would provide a high degree of confidence that restoration of coastal migratory stocks of Atlantic striped bass will be successful.

As noted above, H.R. 3358 would extend through FY 1988 the requirement for biannual enforcement monitoring and imposition of a fishing moratorium by the Secretary of Commerce in the event of inadequate Plan enforcement. Another important provision of H.R. 3358 is its expansion of waters covered by the Act to include the Potomac River. The bill would also authorize the Emergency Striped Bass Study through FY 1988 and would authorize funding through FY 1988 to carry out provisions of the Act.

We fully support these above measures except for the extension of the authorization of the Emergency Striped Bass Study. That authorization is unnecessary since research on factors affecting performance and status of the striped bass resource may continue under existing authorizations and programs.

In our view, H.R. 3358 could be further strengthened by specifically extending other provisions of the Act. The bill would not clearly require additional review of the Commission's Interstate Management Plan for Striped Bass, any revision to the Plan, or

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State actions to implement the amended Plan. As a result, it is not clear that there would be formal review of implementing for the Potomac River or a review under the Act of each State's measures to implement Amendment 3 of any future amendments.

Twelve States, the District of Columbia, and the Potomac River Fisheries Commission are involved in implementing the Plan, which means a correspondingly large number of implementation measures, all subject to change. Ongoing review of the adequacy of measures developed and adopted to implement the Plan is therefore necessary. Ensuring full implementation of Amendment 3 by all member States of the Commission is especially important. Hence, we recommend that H.R. 3358 amend section 4(a) of the Act to require annual review and evaluation by the Commission of each State's implementation of the Plan. This can be accomplished by adding a new section to H.R. 3358 as follows:

SEC. —. COASTAL STATE REGULATORY MEASURES.

Section 4(a) of the Atlantic Striped Bass Conservation Act is amended by inserting "and during November 1986 and each November thereafter" after "June 1985".

This amendment would also change the time of the evaluation from June to November to allow the Commission to handle it at its annual meeting, usually held in October, rather than having to call a special meeting earlier.

We also recommend amending the provisions of the Act concerning review of the Plan by the Secretaries of Commerce and the Interior and a report to the Congress on Plan adequacy. New information about the status of the resource continues to emerge, and the Plan itself is subject to revision and amendment. We believe the Plan should be reevaluated any time it is substantially amended or revised. Accordingly, we recommend Federal review within six months after approval of any revision or amendment of the Plan by the Commission. This can be accomplished with the following new section.

SEC. —. SECRETARIAL STUDY.

Section 8 of the Atlantic Striped Bass Conservation Act is amended after "Within six months of the date of enactment of this Act" by inserting "and within six months after approval of any revision or amendment of the Plan by the Commission".

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

P. DANIEL SMITH,
Deputy Assistant Secretary.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, as amended, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is

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printed in italic, existing law in which no change is proposed is shown in roman):

16 U.S.C. 1851 note

"Sec. 3. Definitions.

"As used in this Act—

"(1) The term 'Act of 1976' means the Act entitled 'An Act to provide for the conservation and management of the fisheries, and for other purposes', approved April 13, 1976 (16 U.S.C. 1801 et seq.) [this chapter].

"(2) The term 'Atlantic striped bass' means members of stocks or populations of the species Morone saxatilis, which ordinarily migrate seaward of the waters described in paragraph (3)(A)

[**"(3) The term 'coastal waters' means—**

[**"(A) all waters, whether salt or fresh, of a coastal State shoreward of the baseline from which the territorial sea of the United States is measured; and**

[**"(B) the waters of a coastal State seaward from the baseline referred to in subparagraph (A) to the inner boundary of the exclusive economic zone.**

[**"(4) The term 'coastal State' means Pennsylvania and each State of the United States bordering on the Atlantic Ocean north of the State of South Carolina.**]

"(3) The term 'coastal waters' means—

"(A) for each coastal State referred to in paragraph (4)(A)—

* * * * * * *

"(i) all waters, whether salt or fresh, of the coastal State shoreward of the baseline from which the territorial sea of the United States is measured; and

"(ii) the waters of the coastal State seaward from the baseline referred to in clause (i) to the inner boundary of the exclusive economic zone;

"(B) for the District of Columbia, those waters within its jurisdiction; and

"(C) for the Potomac River Fisheries Commission, those waters of the Potomac River within the boundaries established by the Potomac River Compact of 1958.

"(4) The term 'coastal State' means—

"(A) Pennsylvania and each State of the United States bordering on the Atlantic Ocean north of the State of South Carolina;

"(B) the District of Columbia; and

"(C) the Potomac River Fisheries Commission established by the Potomac River Compact of 1958."

Sec. 4. Commission functions.

[**"(a) Coastal State Regulatory Measures.**—The Commission shall decide during June 1985 whether each coastal state has adopted all regulatory measures necessary to fully implement the Plan in its coastal waters. The Commission shall immediately

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notify the Secretaries of each negative determination made by it under the preceding sentence.

["**(b) Monitoring of enforcement.**—Commencing on July 1, 1985, the Commission shall monitor on a biannual basis the enforcement of the Plan by each coastal State for purposes of deciding if that enforcement is satisfactory. Enforcement by a coastal State may not be considered satisfactory by the Commission if, in its view, the enforcement is being carried out in such a manner that the implementation of the Plan within its coastal waters is being, or will likely be, substantially and adversely affected.

["**(c) Notification to Secretary of results of enforcement monitoring.**—On December 30, 1985, and on the closing date of each biannual period thereafter, the Commission shall notify the Secretaries of the results of the monitoring under subsection (b) of each coastal State.

["**(d) Secretarial action after notification.**—Immediately upon receiving notice from the Commission—

["(1) under subsection (a) that a coastal State has not taken the actions described in that subsection; or

["(2) under subsection (c) that the enforcement of the Plan by a coastal State is not satisfactory;

["the Secretary shall determine, within 30 days, whether that coastal State is in compliance with the Plan and, if the State is not in compliance, the Secretary shall declare a moratorium on fishing for Atlantic striped bass within the coastal waters of that coastal State. In making such a determination, the Secretary shall carefully consider and review the comments of the Commission, that coastal State in question, and the Secretary of the Interior.**]**

"(a) MONITORING OF IMPLEMENTATION AND ENFORCEMENT.—

"(1) Commencing on July 1, 1986, the Commission shall monitor on a biannual basis—

"(A) whether each coastal state has adopted all regulatory measures necessary to fully implement the Plan in its coastal waters; and

"(B) the enforcement of the Plan by each coastal State for purposes of deciding if enforcement is satisfactory. Enforcement by a coastal state may not be considered satisfactory by the Commission if the enforcement is being carried out in such a manner that the implementation of the Plan is being, or will likely be, substantially and adversely affected.

("(2) The Commission shall immediately notify the Secretaries of each negative determination made by it under this subsection.

"(b) SECRETARIAL ACTION AFTER NOTIFICATION.—

"Upon receiving notice from the Commission under subsection (a) that a coastal State has not taken the actions described in that subsection, the Secretary shall determine, within 30 days, whether that coastal State is in compliance with the Plan and, if the State is not in compliance, the Secretary shall declare a moratorium on fishing for Atlantic striped bass within the coastal waters of that coastal State. In making such a determination, the Secretary shall carefully consider and review the comments of the Commission, that coastal State in question, and the Secretary of the Interior.

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"Sec. 5. Moratorium.

"(a) **Definitions.**—For purposes of this section—

"(1) The term 'moratorium area' means the coastal waters with respect to which a declaration under section [4(d)] *4(b)* applies.

[**"(2) The term 'moratorium period' means the period beginning on the day on which moratorium is declared under section 4(d) regarding a coastal State and ending on the day on which the Commission notifies the Secretary that that State has taken appropriate remedial action with respect to those matters that were the cause of the moratorium being declared.**]

"(2) The term "moratorium period" means the period beginning on the day on which a moratorium is declared under section 4(b) regarding a coastal State and ending on the day on which the Commission notifies the Secretary that that State has taken appropriate remedial action with respect to those matters that were the cause of the moratorium being declared and the Secretary, upon review, agrees with the determination of the Commission.

* * * * * * *

[**"Sec. 7. Authorization of appropriations.**

[**"Fund** for activities in fiscal year 1985 under this Act shall be made available only from funds appropriated for the Department of Commerce and the Department of the Interior for fiscal year 1985. For fiscal year 1986, there are authorized such sums as may be necessary or appropriate to carry out the provisions of this Act.]

"SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

"For each of fiscal years 1986 and 1987, there are authorized to be appropriated such sums as may be necessary or appropriate to carry out the provisions of this Act."

* * * * * * *

"Sec. 9. Effective period.

"Sections 1 through 8 shall take effect upon enactment of this Act [Oct. 31, 1984] and shall cease to have force and effect [18 months after the date of enactment of this Act."] *at the close of September 30, 1987."*

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16 U.S.C. 757g

§ 757g. Striped bass population studies

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(d) FUNDING OF STUDIES.—There are authorized to be appropriated for the purposes of carrying out the studies described in subsection (a) of this section not to exceed $1,000,000 for the fiscal year ending September 30, 1980, not to exceed $1,750,000 for the fiscal year ending September 30, 1981, not to exceed $2,000,000 for the fiscal year ending September 30, 1982, and not to exceed $1,000,000

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for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, [and September 30, 1986.] *September 30, 1986, September 30, 1987, and September 30, 1988.* Funds authorized to be appropriated by this subsection are in addition to any funds authorized by section 757d of this title which may be used for projects involving or affecting striped bass. If the Secretary considers that the studies described in subsection (a) of this section should be continued after September 30, 1982, the Secretary shall inform the Congress in writing before February 15, 1981, of the reasons why and for how long such continuation is believed to be warranted.

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